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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/540,120

10/24/2005

Dieter Jablonka

05-444

1191

34704 7590 09/18/2008

BACHMAN & LAPOINTE, P.C.

900 CHAPEL STREET

SUITE 1201

NEW HAVEN, CT 06510

EXAMINER

PATTERSON, MARC A

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

09/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/540,120	<b>Applicant(s)</b> JABLONKA ET AL.	
	<b>Examiner</b> MARC A. PATTERSON	<b>Art Unit</b> 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 28-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/28/05</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

**DETAILED ACTION**

***Claim Rejections – 35 USC § 102(b)***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 28 and 30 – 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Falla et al (U.S. Patent No. 5,508,051) as evidenced by MacCracken et al (U.S. Patent No. 4,608,836).

With regard to Claims 28, 30 and 32, Falla et al disclose a process for production of elements from PCM comprising extruding a tube from a synthetic material (polyethylene; column 12, lines 6 – 10) and filling water into the tube (column 12, line 22 - 35) and storing the tube (column 13, line 47); Falla et al do not disclose that water is a PCM, but MacCracken et al disclose that water is a PCM (column 2, lines 45 – 46).

With regard to Claim 31, the tube disclosed by Falla et al is heat sealed (column 8, line 56), therefore transported to a cooling zone after it is filled.

***Claim Rejections – 35 USC § 103(a)***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 29 and 33 – 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falla et al (U.S. Patent No. 5,508,051) in view of Frechtmann et al (U.S. Patent No. 2,977,729).

Falla et al disclose a tube that is filled as discussed above. With regard to Claim 29, Falla et al fail to disclose storing the tube coiled up.

Frechtmann et al teach a tube that is filled, comprising a number of linked packages (column 3, lines 21 - 23) for the purpose of obtaining packages that are severable and separate (column 1, lines 15 - 22). One of ordinary skill in the art would therefore have recognized the advantage of providing for the tube of Frechtmann et al in Falla et al, which comprises a tube, depending on the desired severability of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a number of linked packages in Falla et al in order to obtain packages that are severable and separate as taught by Frechtmann et al. It would also be obvious for one of ordinary skill in the art to store the tube in any form for which it is capable, including coiled up.

With regard to Claims 33 – 37, Frechtmann et al teach constricting the tube at predetermined locations in order to form tube sections and heat sealing the constrictions, therefore by reciprocating pressing tools (column 3, lines 35 - 51), it would therefore have been obvious for one of ordinary skill in the art to provide for any structure of support for transporting the tube and tools past each other, including counter – revolving endless conveyor belts or wheels.

With regard to Claim 38, Frechtmann et al teach severing of the tube sections, therefore at narrow points, as discussed above, and ends of the tube therefore remain sealed.

With regard to Claim 39, Frechtmann et al fail to teach a granular material comprising the tube sections. However, Frechtmann et al teach the selection of the length of the sections depending on the desired use of the end product (any desired practical length; column 3, lines 17 - 20); it would therefore be obvious for one of ordinary skill in the art, through routine optimization, to determine the length of the sections, therefore whether the sections are granular, depending on the desired end use.

5. Claims 40 – 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falla et al (U.S. Patent No. 5,508,051) in view of Frechtmann et al (U.S. Patent No. 2,977,729) and further in view of Katz (U.S. Patent No. 4,759,814)

Falla et al and Frechtmann et al disclose a tube sections as discussed above. With regard to Claims 40 – 45, Falla et al and Frechtmann et al fail to disclose fixing the tube sections to a non – woven fabric by connecting the sections to the fabric in a nip and coating the sections, from an extruder nozzle, with a film.

Katz teaches fixing the tube sections to a non – woven fabric by connecting the sections to the fabric in a nip and coating the sections from an extruder nozzle with a film (column 2, lines 32 – 66) for the purpose of obtaining sections having increased strength (column 1, lines 10 - 28). One of ordinary skill in the art would therefore have recognized the advantage of providing for the fixing of Katz in Falla et al and Frechtmann et al, which comprises tube sections, depending on the desired strength of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for fixing the tube sections to a non – woven

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fabric by connecting the sections to the fabric in a nip and coating the sections, from an extruder nozzle, with a film in Falla et al and Frechtmann et al in order to obtain sections having increased strength as taught by Katz.

With regard to Claim 46, it would therefore be obvious for one of ordinary skill in the art to provide for feeding of the tube sections from the hands of an operator, therefore hands formed into a hopper.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497. The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Marc A Patterson/  
Primary Examiner, Art Unit 1794